



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Pancor Corporation

File: B-234168

Date: March 29, 1989

DIGEST

Protest against the procuring agency issuing a "Potential Sources Sought" announcement in the Commerce Business Daily to obtain information about commercially available militarized shotguns and ammunition to plan future procurements will not be considered because the General Accounting Office only considers protests against solicitations already issued by federal agencies and awards made or proposed to be made under those solicitations.

DECISION

Pancor Corporation protests the Naval Weapons Support Center (NWSC), Crane Indiana, issuing a "Potential Sources Sought" announcement published in the Commerce Business Daily (CBD) to obtain information about commercially available militarized shotguns and ammunition in order to plan future procurements. Pancor contends that the announcement is ambiguous, capricious, and restricts full and open competition.

We dismiss the protest.

The announcement was issued on December 20, 1988, to survey the marketplace for commercially available shotguns and ammunition that might satisfy the Joint Service Small Arms Program's need for an improved close-assault weapon and listed several specific features required of the product. Several prototype close assault weapons have been produced for the Navy under research and development contracts; however, the Navy reports that these prototypes have presented several technical problems which make production of the weapon infeasible. Therefore, the Navy reports that the announcement was an attempt to determine the types of close assault weapons and ammunition currently commercially available in order to plan future procurements.

Pancor contends that the announcement improperly does not specify whether a solicitation will be the end result of the Navy's survey and that it is impossible to respond intelligently to the announcement when the Navy has not provided specifications on the current slide action military shotgun. Further, Pancor argues that the language requiring that the weapon and ammunition be available within 270 days is unduly restrictive. Pancor argues that a request for information notice is to find new sources and innovative products rather than commercially available products and that the Navy is using the announcement as a subterfuge in order to justify a sole-source procurement in the future.

Under the Competition in Contracting Act of 1984 (CICA), 31 U.S.C. § 3551 (Supp. IV 1986), and our Bid Protest Regulations, 4 C.F.R. § 21.1(a) (1988), this Office's jurisdiction is limited to considering protests involving solicitations already issued by federal agencies and awards made or proposed to be made under those solicitations.

Because the announcement was for information purposes only, we do not find that the Navy's action can be reviewed under our Bid Protest function since it does not involve the issuance of a solicitation or the award or proposed award of a contract. See T.J. O'Brien Co.--Reconsideration, B-228244.3, Dec. 31, 1987, 88-1 CPD ¶ 4. However, we find that Pancor is mistaken about the use of "Potential Sources Sought" announcements. Part 11 of the Federal Acquisition Regulations authorizes procuring agencies to conduct market research and analysis in order to ascertain the availability of commercial products to meet their minimum needs by publication in the CBD. See Federal Acquisition Regulation § 11.000 et seq. (FAC 84-5). In any event, the Navy advises that the announcement required that the weapon and ammunition be available within a production lead time of 270 days because this demonstrates the commercial availability of the product. The Navy also states that, in the event of a future procurement, full and open competitive procedures will be employed and Pancor, which is listed as a potential source, will have the opportunity to compete.

The protest is dismissed.



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Associate General Counsel